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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1944

No. 102

CHARLES WILLIAMS, PETITIONER,

vs.

PAUL E. KAISER, WARDEN, MISSOURI STATE PENITENTIARY

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSOURI

PETITION FOR CERTIORARI FILED MAY 26, 1944.

CERTIORARI GRANTED JUNE 12, 1944.

SUPREME COURT OF THE UNITED STATES

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[fol. 1] **IN THE SUPREME COURT OF MISSOURI**

No. 39107

CHARLES WILLIAMS, Petitioner,

vs.

PAUL E. KAISER, Warden Missouri State Penitentiary, Respondent

MOTION FOR LEAVE TO SUE IN FORMA PAUPERIS

Comes now the petitioner, Charles Williams, and states to the Court that he believes there is a just and a sufficient cause of action by habeas corpus against the above-named respondent.

The petitioner further states that he is a pauper, without funds, property or income, and he cannot pay the usual fees and costs of prosecuting his petition for a writ of habeas corpus in this Court or give security for the same.

Wherefore, petitioner prays the Court for leave to sue in forma pauperis in this Court upon his petition for a writ of habeas corpus.

This motion is presented in good faith and not merely for vexation.

Charles Williams, Petitioner.

This affiant makes oath and says that the facts stated in the above motion are true according to his best knowledge and belief.

Charles Williams, Affiant.

Subscribed and sworn to before me, a Notary Public within and for the County and State aforesaid, at my office in Jefferson City, Missouri, this 17 day of April A. D. 1944. My commission expires —— —, ——. —— ——, Notary Public.

[fol. 2] IN THE SUPREME COURT OF MISSOURI

[Title omitted]

PETITION FOR A WRIT OF HABEAS CORPUS

Comes now the petitioner, Charles Williams, and for his cause of action and petition states to the Court that he is being illegally and unlawfully deprived of his liberty by the

respondent, Paul E. Kaiser, Warden of the Missouri State Penitentiary, located in Cole County, Missouri, and the said petitioner is being there detained as prisoner number 54003, having been committed thereto on the 28th day of May, 1940, by the Circuit Court of Iron County, Missouri, having entered a plea of guilty in said Court on said day to an Indictment charging him, the said petitioner, with the offense of Robbery by means of a dangerous and deadly weapon, which is defined as a Capital Offense under the laws of the State of Missouri, and upon said plea the petitioner was by said court sentenced to imprisonment in the state penitentiary for a term of fifteen (15) years, said sentence to commence on the 11th day of May, 1940, that the petitioner was thereafter delivered to and confined in said prison under said sentence, and as prisoner number 54003, and he is now so confined. Prior to his conviction and sentence, as aforesaid, the petitioner requested the aid of counsel. At the time of his conviction and sentence, as aforesaid, the petitioner was without the aid of counsel, the Court did not make an appointment of counsel, [fol. 3] nor did petitioner waive his constitutional right to the aid of counsel, and he was incapable adequately of making his own defense, in consequence of which he was compelled to plead guilty. Attached hereto and made a part hereof are true and correct copies of the Indictment and of the judgment and sentence.

Your petitioner says that said imprisonment is illegal and unlawful and contrary to the laws of Missouri and contrary to the Constitution of the United States in the following particulars, to-wit:

1. "Because the Circuit Court of Iron County refused the request of petitioner for the appointment of counsel, the petitioner was without the aid of counsel, and he did not waive his right to the aid of counsel, and the judgment and sentence is thereby vitiated, since under the "due process" clause of the 14th Amendment to the Constitution of the United States, it was the duty of the trial court, Whether Requested or Not, to assign counsel for the petitioner As A Necessary Requisite Of Due Process Of Law, since petitioner was charged in said court with a Capital Offense, to wit, Robbery by means of a dangerous and deadly weapon, and it follows that the failure of the trial court to make an effective appointment of counsel for the petitioner Is A

Denial Of Due Process Of Law And The Judgment Of Said Court Is Void.

2. "Because the petitioner was not represented by counsel, and because he was incapable adequately of making his own defense, and because he did not waive his constitutional right to the aid of counsel, and the trial court denied him counsel, it follows that the judgment of conviction pronounced by the Circuit Court of Iron County, Missouri, is Void, since the jurisdiction of said court was lost when it denied petitioner due process of law by refusing to appoint counsel."

The petitioner states that the requirement of conforming to fundamental standards of procedure in criminal trials [fol. 4] Was Made Operative Against the States by the 14th Amendment to the Constitution of the United States of America, and is therefore applicable in this case. Moreover, "The State Courts are as much bound as the Federal Courts to see that no man is punished in violation of the Constitution or laws of the United States".

The petitioner states that no application for the relief sought has been made to or refused by any Court, officer or officers superior to the one to whom this petition is presented.

Wherefore, the petitioner prays that a writ of habeas corpus may be issued that he may be discharged from said unlawful imprisonment.

Charles Williams, Petitioner.

This affiant makes oath and says that the facts stated in the foregoing petition are true according to his best knowledge and belief.

Charles Williams, Affiant.

[fol. 5] EXHIBIT TO PETITION

IN THE CIRCUIT COURT, APRIL TERM, 1934

STATE OF MISSOURI,
County of Iron, ss:

No. 6655

STATE OF MISSOURI, Plaintiff,

vs.

CHARLES WILLIAMS, Defendant

INDICTMENT

The Grand Jurors for the State of Missouri summoned out of the body of the County of Iron, and State of Missouri, and duly impaneled, sworn and charged to inquire within and for the body of the County of Iron, and State of Missouri, and true presentment make, upon their oaths present and charge that heretofore, to-wit: That on or about the 22nd day of December, 1927, at the County of Iron and State of Missouri, Charles Williams, with force and arms and with and by means of a dangerous and deadly weapon, to-wit, a revolving pistol, in and upon W. C. Mabrey and Mann Ringo, feloniously did make an assault; and the said W. C. Mabrey and Mann Ringo in fear of an immediate injury to their persons did put, and by force and violence to their persons, Seven Thousand Two Hundred Seventy-two Dollars and Nineteen Cents, lawful money of the United States, of the value of Seven Thousand Two Hundred Seventy-two Dollars and Nineteen Cents, all the money and property of the Iron County Bank, a banking corporation, from the persons, in the presence and against the will of the said W. C. Mabrey and Mann Ringo then and there, with and by means of a dangerous and deadly weapon and with force and violence as aforesaid, feloniously and violently did rob, steal, take and carry away, with the felonious intent then and there permanently to deprive the owner thereof of the use thereof and to convert the same to their own use; against the peace and dignity of the state.

A True Bill.

J. L. Baldwin, Foreman of the Grand Jury.

J. H. Keith, Prosecuting Attorney.

Witnesses: W. C. Mabrey, Chas. J. Tual, Kathleen Marr.

STATE OF MISSOURI,
County of Iron, ss:

I, R. C. Jones, Clerk of the Circuit Court and Ex-Officio Recorder of said County, do hereby certify that the above and foregoing is a full, true and complete copy of an Indictment in the case of State of Missouri vs. Charles Williams as fully as the same appears on file in my office.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, at Ironton, Missouri, this 2nd day of January, A. D. 1942.

/s/ R. C. Jones, Clerk.

[fol. 6] EXHIBIT TO PETITION

CERTIFIED COPY OF SENTENCE AND JUDGMENT OF COURT

IN THE CIRCUIT COURT, SPECIAL TERM, 1940

STATE OF MISSOURI,
County of Iron, ss:

Be It Remembered, That heretofore, to-wit, on the 28th day of May, 1940, at a Special Term of the Circuit Court begun and held at the Court House in the City of Ironton, in the County and State aforesaid, before the Honorable Edw. T. Eversole, Judge of the Twenty-first Judicial Circuit of the State of Missouri, and Judge of this Court, the following among other proceedings were had, to-wit:

No. 6655, The State of Missouri, Plaintiff, vs. Charles Williams, Defendant, Ind. #5, Criminal Action, Sentence and Judgment.

Now, at this day comes the Prosecuting Attorney for the State, and also comes the Defendant herein, in person, in custody of the Sheriff of this County, [and in presence of his Attorney and counsel]*, in open Court; whereupon said Defendant is informed by the Court that he has heretofore pleaded guilty to the crime of Robbery with a deadly weapon, as charged in the Indictment against him, and being now asked by the Court if he had any legal cause to show

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* Matter enclosed in brackets struck out in copy.

why judgment should not be pronounced against him, according to law, and still failing to show such cause:

It Is Therefore Sentenced, Ordered and Adjudged by the Court, That the said defendant, Charles Williams, having pleaded guilty as aforesaid, be confined in the Penitentiary of the State of Missouri for the period of fifteen years from the 11th day of May, 1940, and that the Sheriff of this County shall, without delay, remove and safely convey the said Defendant to the said Penitentiary, there to be kept, confined and treated in the manner directed by law; and the Warden of said Penitentiary is required to receive and safely keep him, the said defendant, in the Penitentiary aforesaid, until the judgment and sentence of the Court herein be complied with, or until the said defendant shall be otherwise discharged by due course of law.

It Is Further Considered, Ordered and Adjudged By The Court, That the State have and recover of said Defendant the costs in this suit expended, and that hereof execution issue therefor.

State of Missouri,
County of Iron, ss:

I, R. C. Jones, Clerk of the Circuit Court in and for said County, hereby certify that the above is a true copy of the original Judgment and Sentence of the Court in the cause therein named as the same appears of record in my office.

Witness my hand as Clerk, and the seal of said Court. Done at office in Ironton, Missouri, this 29th day of May, 1940.

(Signed) R. C. Jones, Circuit Clerk, By Clara Schwab, D. C.

[fol. 7] LETTER FROM CLERK ADVISING OF DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS

Clerk of the Supreme Court, State of Missouri, Jefferson City, Missouri, Marion Spicer, Clerk.

May 2, 1944.

Charles Williams, Box 900, City:

In re: Williams vs. Kaiser, No. 39107

Dear Sir:

Your motion for leave to file a petition for a writ of habeas corpus as a poor person has been sustained, and the petition filed.

Writ of Habeas corpus denied for the reason the petition fails to state a cause of action.

Yours very truly, Marion Cpicer, Clerk.

[fol. 8] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1944

No. 102

[Title omitted]

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS—June 12, 1944

On consideration of the motion for leave to proceed herein *in forma pauperis*,

It is ordered by this Court that the said motion be, and the same is hereby, granted.

[fol. 9] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1944

No. 102

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed June 12, 1944

The petition herein for a writ of certiorari to the Supreme Court of the State of Missouri is granted, and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Endorsed on cover: In forma pauperis. Enter petitioner pro se. File No. 48,530, Missouri, Supreme Court, Term No. 102. Charles Williams, Petitioner, vs. Paul E. Kaiser, Warden, Missouri State Penitentiary. Petition for a writ of certiorari and exhibit thereto. Filed May 26, 1944. Term No. 102, O. T. 1944.

[fol. 9] [Stamp:] Office of the Clerk. Received Oct. 30, 1944. Supreme Court L. S.

In the Supreme Court of Missouri, May Term, 1944

39107 Habeas Corpus

Charles Williams, Petitioner,

vs.

Paul E. Kaiser, warden of the Missouri State Penitentiary, Respondent,

Now at this day the court having seen and considered petitioner's motion for leave to file a petition for a writ of habeas corpus as a poor person, doth order that said motion be, and the same is hereby sustained.

And now on consideration of the petition for a writ of habeas corpus herein, it is ordered by the court that the said petition be, and the same is hereby denied for the reason petition fails to state a cause of action.

State of Missouri—Set.

I, Marion Spicer, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the May Term thereof, 1944, and on the 2nd day of May 1944, in the above entitled cause.

Given under my hand and seal of said Court, at the City of Jefferson City, this 20th day of October 1944.

Marion Spicer, Clerk. (Seal.)